

**Meeting Summary  
DNR Clean Air Act Task Force  
February 17, 2000 - Madison, WI**

**Participants:** Peter Beitzel, Metro. Milwaukee Association of Commerce; Terry Coughlin, Kris McKinney and Kathleen Standen, Wisconsin Electric; Harold Frank, Dairyland Power Cooperative; David Donovan, Northern States Power Co. - WI; Bob Fassbender, Hough Fassbender Osborne & Associates; Ed Wilusz, Wisconsin Paper Council; Patrick Stevens, Wisconsin Manufacturers & Commerce; Keith Reopelle, Wisconsin's Environmental Decade; Doug Aburano, USEPA Region 5; Jill Stevens, Alliant Energy; Jim Beasom, Appleton Papers; Mark Steinberg, S.C. Johnson & Son; Todd Palmer, DeWitt Ross & Stevens; Michael Ricciardi, Madison Gas & Electric; Michael Allen, Stafford Rosenbaum LLP; Lou Skibicki, RTP Environmental Associates; Dave Gardner, Briggs & Stratton; Dwight McComb, Federal Highway Administration; Preston Schutt, Wisconsin Energy Bureau; Sally Jenkins, Public Service Commission of Wisconsin; Hampton Rothwell, Wisconsin Dept. of Commerce; Carol Cutshall, Dennis Presser and Steve Hirshberg, Wisconsin Dept. of Transportation; Larry Bruss, Bob Lopez, Lloyd Eagan, Josie Pradella, Jerry Medinger, Tom Karman, Anne Bogar and Anne Urbanski, DNR .

**Handouts:** Timetable and 12 largest source categories for non-CTG RACT industrial cleanup solvents RACT rule, and (Bruss); Update on Lake Michigan Regional Efforts and Crafting Wisconsin's 1-Hour Ozone Plan (Lopez); Proposed outline: public input process for one-hour ozone attainment demonstration SIP (Eagan).

**Next meeting:** **Thursday, March 9, 2000**, from 1:30 to 4:00 p.m. in Room 041, Public Instruction Bldg. (GEF 3), 125 S. Webster St., Madison, WI

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**Discussion**

No additions were made to the agenda; Eagan noted that some items might be discussed out of the written order. No corrections were made to the meeting summary of February 3, 2000.

**Followup Wisconsin modeling efforts** - Larry Bruss said DNR has re-evaluated the attainment test based on some qualifications in EPA's guidance. The result is that Wisconsin can demonstrate attainment of the one-hour ozone standard using either NOx SIP call controls or else a lower level of NOx controls but additional discrete VOC controls. EPA is taking a firm position that Wisconsin's SIP cannot propose attainment in phases, but must reach attainment in one step. Kris McKinney asked what geographic area would be included; Bruss said the evaluation looked at two tiers of counties around Lake Michigan, so it would cover Brown, Outagamie, Walworth and some smaller counties as well as the existing nonattainment areas. However DNR is evaluating potential VOC controls for a much broader geographic area, extending west to Dane County. Four strategies pass the attainment test: 12 (the NOx SIP call), 12a and 12b (additional NOx or VOC controls), and 8b (0.25 EGU plus VOC control). Pat Stevens asked if he understood correctly that EPA would not accept a phased approach to attainment; Bruss said that is EPA's current position. Lloyd Eagan said the modeling efforts and resulting attainment strategies are in a state of flux and nothing is set in stone yet. We anticipate a negotiated agreement among Wisconsin, Illinois, Indiana, EPA Region 5 and headquarters on what we can use to demonstrate attainment, and Secretary Meyer will be very involved in this process. One problem for DNR staff is that we are doing data analysis, policy development and negotiations simultaneously, rather than in the usual linear process. Stevens called the timeframe "totally unrealistic" and said it was especially hard on stakeholders. Eagan replied that EPA's position is that Wisconsin is already six years late submitting this SIP, which was due in 1994. Stevens said EPA's requirements keep changing, which is not realistic from industry's standpoint. Eagan said DNR has asked for additional time for the submittal, but the EPA would not grant more time, even when the request came from Gov. Thompson, because we are so overdue on the attainment demonstration. Lou Skibicki asked if EPA had already written a Federal Implementation Plan in case Wisconsin fails to submit an approvable SIP; Bruss replied that EPA would probably base their FIP on Strategy 12, which passes the attainment test. Bob Fassbender noted, and Doug Aburano concurred, that EPA would have to propose a FIP. There was some

discussion of when EPA might impose a FIP if Wisconsin's phase 2 ozone attainment submittal is not approved; Fassbender said the Federal Register indicates the FIP would be imposed on July 31, 2000, but Aburano said that is the latest date, and it could be imposed immediately. Keith Reopelle asked if DNR's latest modeling considered what strategies might be needed to protect public health. Eagan said that none of the modeled strategies reduces ozone levels anywhere near the 8-hour ozone standard of 85 ppb (enforcement of which is currently stayed by litigation). The design value at Newport Beach is 97 ppb, while there are still some high 90s in Michigan and some mid-90s in Indiana. The strategies that pass the one-hour attainment test still leave many populated areas with readings above the 8 hour standard.

**Three-state approaches still under discussion** - Bob Lopez outlined the group process that Wisconsin, Illinois and Indiana are using in developing their joint 1-hour attainment SIP. Wisconsin wants to capture as much regional reduction as possible early in the game to get the most air-quality improvement possible, to reduce the local Wisconsin control burden and realize health benefits. Right now the discussion is narrowing and Wisconsin has the only active proposal on the table. The three states agree on focusing mostly on NOx controls. EPA is very clear that whatever we submit must show attainment in one step, not a phased approach. EPA has a clear objective - they want an attainment demonstration, not a bunch of contingency plans. DNR's position has been that we have a more rational approach with some intermediate steps to enable us to see if we really are going to attain the 1-hour ozone standard. Indiana really wants to maintain its emission-rate-based approach, while Illinois seems concerned about whether adequate VOC controls can be developed. Dave Donovan said he thought he heard Bruss say that Strategy 8b also meets the attainment test; Bruss said it does, but it's not reasonable to think we can actually achieve the stringent level of additional VOC controls (25% additional reductions) it would require. Bob Fassbender asked whether any other, less stringent strategies specific to Wisconsin were being evaluated; Lopez said the states have always been working on a regional evaluation and solution, based on meteorology and ozone episodes. Aburano said EPA's position is that Wisconsin's current proposal does not demonstrate attainment because it involves three steps, rather than one. Bruss noted that EPA is looking for final rules to show attainment by 2007, and Wisconsin's current proposal does not envision having such rules ready by December 2000. Fassbender said it seemed to him that other states are not buying into Wisconsin's proposal; however in order to have any political viability inside Wisconsin, the plan must have buy-in from Illinois and Indiana and not appear to be a unilateral Wisconsin activity. Lopez said he expected Illinois to make a counterproposal very soon. (Bruss noted that in fairness to Illinois, their long-time air director recently left to become director of EPA's Region 5 Air & Radiation Division, and the interim director is not well-versed in air issues. Lopez said if we don't get a good response from Illinois and Indiana, we must go to backstop postures that we really don't want to get into right now. Fassbender asked if Wisconsin would go forward unilaterally with its proposal if Illinois and Indiana don't send the right signals; Eagan said if we don't get regional cooperation, we would go forward with an attainment demonstration that assumes certain control levels, and then follow up with an s. 126 petition. So Wisconsin would proceed generally with its proposal regardless of other states' responses; or, Keith Reopelle said, we would comply with the law regardless of how other states proceed. Eagan said she preferred Reopelle's phrasing. Lopez said DNR is trying to craft a rational response rather than just stonewalling and using legal maneuvers. Fassbender said that Wisconsin should not have to put everything on the table; Eagan replied that she wished he would let go of that idea, and that in the absence of a federally required NOx reduction level similar to the SIP call, there's no data that shows that Wisconsin does not need to make substantial NOx reductions. Bruss interjected that on a per-capita and per-economic-output basis, Wisconsin's emissions have more effect on our own nonattainment areas than emissions from anywhere else, and it defies logic to think we would ask for more reductions in a 126 petition than we are willing to make ourselves. Dave Donovan asked why Wisconsin is proposing a .25 lb/MMTBU emission rate from the other upwind states if modeling shows that we will need a .15 emission rate to attain the ozone standard. Eagan replied that the proposal actually says some combination of NOx and additional VOC controls will attain the standard; if stakeholders say no more VOC controls, we will have to do NOx controls up to the SIP call level. Bruss noted that Wisconsin can attain the ozone standard at a .25 NOx emission rate if we add some targeted VOC controls, and our proposal provides flexibility in how to do this. Lopez reiterated that if the Clean Air Act Task Force says the .15 lb. Strategy in a single step is the way to go, that's what DNR will submit.

**VOC control options under consideration** -- Bruss handed out a timetable for a non-CTG RACT rule on industrial cleanup solvents that would affect many source categories and facilities. In just the severe and moderate nonattainment counties DNR believes there is a total of 292 tons/ozone season VOC emissions reductions (less than 3 tons/day) from several SIC categories. Most of the reductions would likely come from improved work practices rather than hardware additions. The vast majority would come from major sources that use a lot of cleanup solvents. Bruss outlined the rulemaking schedule, which is on a very quick timeframe. DNR is working from a rule template developed by the California Air Resources Board and the South Coast Air Quality Management District. This rule is part of Wisconsin's phase 2 SIP commitment. Mark Steinberg asked how DNR would determine applicability thresholds; Bruss replied that the de minimus threshold is whether a facility is defined as a major source. Lopez noted that non-CTG RACT means that there is no packaged, across the board approach on how sources must reduce the emissions in question, so each state can do a comparative analysis of other states' control mechanisms. Bruss said Illinois already has a rule requiring 85% VOC control from solvent cleaning sources.

Bruss said the air directors of Wisconsin, Illinois and Indiana decided to define "reasonable control" by looking at four source sectors that are widespread in the four-state region (including Michigan). They came up with architectural and industrial maintenance coatings (paints), commercial and consumer solvents, small engines, and low Reid vapor pressure gasoline in "collar" counties around nonattainment areas. Wisconsin is analyzing RACT for the AIM category. The three states plus LADCO are developing a four-state analysis representing total emissions after implementing federal rules statewide in all four states. The RACT rules for AIM, CCS and small engines would be implemented statewide because it's too difficult to distribute and market the lower-emission products only in a small geographic area. Mark Steinberg asked DNR to find out which staffer at Indiana Dept. of Environmental Management is working on the commercial and consumer solvents analysis. Bruss noted that these controls, implemented statewide, would result in 12 tpd reductions statewide, with 8 tpd coming from the area east of a line drawn from Green Bay southwest through Madison, where most of Wisconsin's population resides. Illinois would get 26 tpd reductions statewide from AIM RACT, with the vast majority from the Chicago area. Michigan is included in the analysis for all four rules; Eagan said Michigan might implement some RACT rules statewide because they have a big 8-hour ozone problem. Bruss noted that the 12 largest AIM source categories accounted for 75% of all AIM emissions in the four states; RACT would reduce those emissions by 2.6% across the 4 states. Tom Walker said Wisconsin got some fairly large VOC reductions a few years ago from tighter RVP rules; he thinks lower RVP would be more easily implemented than any new reformulated gasoline requirements for several reasons; Lopez agreed that this would be much easier politically than RFG.

Pat Stevens asked if DNR planned to seek public hearing authorization in April from the Natural Resources Board; Eagan said yes, for Industrial Cleanup Solvents use, the others will be handled by administrative order. Stevens said that DNR is much more likely to fail when it pursues rules on such a fast track, due to the likelihood of errors in the rule packages; Eagan urged Stevens and other stakeholders to cooperate as much as possible in helping DNR to craft rules to avoid mistakes. Lopez noted that if we fail to submit a SIP that achieves attainment, Wisconsin sources will face a "contingent excess emissions fee" of \$5,000 that would apply to 20% of major source emissions in the nonattainment area beginning in 2008.

**Continuing dialog on narrowing Wisconsin's SIP strategy** -- Donovan asked Eagan to clarify what Wisconsin's 126 petitions would say about emissions reductions from upwind states, if Indiana and Illinois don't agree to Wisconsin's proposal. Eagan said Wisconsin's 126 petition would ask EPA to go after major sources and electric-generating units in the identified upwind states, to cut their NOx emissions to the level of the NOx SIP call. Donovan asked if taking a regional approach would mean Wisconsin would not have to make NOx reductions at SIP-call levels; Eagan said both she and Secretary Meyer have emphasized this to the other states. Kathleen Standen asked about the assumed background NOx levels outside Wisconsin, Illinois and Indiana. Bruss said the assumed emission rates range from 0.15 to 0.35 depending on location; at Fassbender's request DNR will put together a table on this information.

Bruss and Tom Karman outlined DNR's ideas about potential NOx control programs. While DNR's current proposal is for statewide controls, implementation would likely result in most controls occurring in the more populated areas of the state, east of a line from Platteville to Green Bay. One map showed all NOx

combustion units in Wisconsin that could be affected by Step 1 of Wisconsin's proposal. Controls in northwest Wisconsin might be something like "good combustion practice program" that industrial sources (boilers, kilns, EGUs etc.) might want to do anyway for various reasons. Another way to get commensurate reductions would be to force the emission reductions into the populous Green Bay-to-Platteville-to-Kenosha triangle (the "yellow counties" on the map). This could involve similar EGU controls but add more industrial controls in the yellow counties, affecting more and smaller sources in that area. For boilers < 250 MMBTU, that would mostly mean combustion modifications.

Karman showed four maps of Wisconsin with emissions-by-county resulting from varying control scenarios. Certain counties currently have high NOx emissions (50-100 tons/day). Applying Wisconsin's proposal, no county would have more than 50 tpd NOx emissions and the number with 30-50 tpd emissions would be much reduced as well. When emission controls are focused on the southeastern triangle, even more emission reductions occur, and only Kenosha County remains in the 30-50 tpd category. Step 3 of Wisconsin's proposal, if applied, would affect 96 EGUs. Karman said he was writing up the assumptions behind these figures and would try to send them out to stakeholders in the next few days. Terry Coughlin asked about the number of boilers in the 50-100 MMBTU range; Karman said about 100. Applying controls to smaller boilers would bring in more than 350 additional sources. Coughlin asked how DNR could reasonably measure or enforce these reductions; Karman said DNR needs to look at whether this is practical and how much reduction is available from this size source. Lou Skibicki noted that most of the facilities in this emission range ought to have at least applied for an emissions permit already, and Bruss said many of them have other emission sources besides boilers for which they need permits. Donovan asked about provisions for treating renewable-fueled boilers; Karman said no special provisions were made during the analysis.

**Approach to crafting the SIP** - Bob Lopez said DNR strongly wants to keep the draft rule simple and understandable, but the department must have sufficient flexibility to be responsive to feedback during the public comment process. Right now DNR is leaning toward a rate-based rule and won't try to resolve the geographic applicability issues before the April NRB meeting. DNR will ask for comments on particular elements of the rule package and will take its best guess at an approvable SIP at the time we publish the draft rule. He anticipates the rule being inclusive in terms of emission limits and control requirements, with perhaps some differential coverage based on source sector, unit size and/or type of facility. EPA says we must include language about the excess (contingent) emissions fee in the SIP package. Eagan noted that Secretary Meyer has asked staff to look at options that will push emission reductions into the southeastern triangle, and asked staff to craft a rule with multiple options.

**Proposed outline for public input on the 1 hour attainment demonstration** -- Eagan said she wants the process to be inclusive; it's easier to put in everything, including the kitchen sink, early on and then narrow the process later on, rather than try to add things late in the process. Eagan said some new appointments to the Clean Air Act Task Force will be made during February and March. She outlined the public input process month by month from February through fall 2000. The schedule is not cast in stone. Stevens commented that if the draft rule must be submitted to the NRB in late March, it needs to be nailed down by early March, so there's no real time to get review and significant feedback from the people who will be most impacted by the proposed VOC rules. Eagan said Stevens' point was well taken, but we have to play the hand we've been dealt. The rule will not be like a typical DNR rule, it will be broader with several options that will be narrowed later.

**Other business:** Eagan asked everyone to bring their calendars to the March 9 meeting so at least one more meeting can be set up.